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A bill to be entitled

An act relating to the Department of Management Services; amending s. 110.205, F.S.; providing that certain positions are exempt from the Career Service System; requiring the department to establish the salary and benefits for such positions; revising the definition of the term "department"; amending s. 110.211, F.S.; providing an exception to certain open competition requirements for positions filled by specified apprentices; amending s. 217.07, F.S.; providing that funds held in the Surplus Property Revolving Trust Fund account may be used only for certain operating expenses of the Federal Surplus Personal Property Donation Program; amending s. 287.057, F.S.; revising specified requirements for certain contract managers; making a technical change; amending s. 287.084, F.S.; providing that a vendor is deemed to have its principal place of business in this state if it meets certain criteria; requiring agencies to apply a specified price preference for bids or proposals for certain competitive solicitations from vendors whose principal place of business is in this state; prohibiting such preference from resulting in a price increase exceeding a certain percentage; requiring agencies to disclose such preference in the

26 | stated goals of an invitation to negotiate to
27 | determine best value; providing an order of preference
28 | when multiple bids, proposals, or replies for certain
29 | competitive solicitations are submitted by such
30 | vendors; prohibiting such vendors from substituting
31 | end products that would otherwise not qualify for a
32 | certain preference after the award of the contract or
33 | during the contract term unless specified conditions
34 | exist; requiring agencies to consider a specified
35 | price preference for bids or proposals for certain
36 | competitive solicitations from vendors whose principal
37 | place of business is in the United States; prohibiting
38 | such preference from resulting in a price increase
39 | exceeding a certain percentage; requiring agencies to
40 | disclose such preference in the stated goals of an
41 | invitation to negotiate to determine best value;
42 | providing an order of preference when multiple bids,
43 | proposals, or replies for certain competitive
44 | solicitations are submitted by such vendors;
45 | prohibiting such vendors from substituting end
46 | products that would otherwise not qualify for a
47 | certain preference after the award of the contract or
48 | during the contract term unless specified conditions
49 | exist; providing and revising applicability; creating
50 | s. 287.0841, F.S.; requiring agencies to apply a price

51 preference for bids or proposals from vendors that
 52 currently hold or maintain an investment from the
 53 Florida Opportunity Fund; prohibiting such preference
 54 from resulting in a price increase exceeding a certain
 55 percentage; requiring agencies to disclose such
 56 preference in the stated goals of an invitation to
 57 negotiate to determine best value; providing an
 58 effective date.

59

60 Be It Enacted by the Legislature of the State of Florida:

61

62 Section 1. Paragraph (n) of subsection (2) and subsection
 63 (4) of section 110.205, Florida Statutes, are amended, and
 64 paragraphs (y), (z), and (aa) are added to subsection (2) of
 65 that section, to read:

66 110.205 Career service; exemptions.—

67 (2) EXEMPT POSITIONS.—The exempt positions that are not
 68 covered by this part include the following:

69 (n)1.a. In addition to those positions exempted by other
 70 paragraphs of this subsection, each department head may
 71 designate a maximum of 20 policymaking or managerial positions,
 72 as defined by the department and approved by the Administration
 73 Commission, as being exempt from the Career Service System.
 74 Career service employees who occupy a position designated as a
 75 position in the Selected Exempt Service under this paragraph

76 shall have the right to remain in the Career Service System by
 77 opting to serve in a position not exempted by the employing
 78 agency. Unless otherwise fixed by law, the department shall set
 79 the salary and benefits of these positions in accordance with
 80 the rules of the Selected Exempt Service; ~~provided, however,~~
 81 ~~that if the agency head determines that the general counsel,~~
 82 ~~chief Cabinet aide, public information administrator or~~
 83 ~~comparable position for a Cabinet officer, inspector general, or~~
 84 ~~legislative affairs director has both policymaking and~~
 85 ~~managerial responsibilities and if the department determines~~
 86 ~~that any such position has both policymaking and managerial~~
 87 ~~responsibilities, the salary and benefits for each such position~~
 88 ~~shall be established by the department in accordance with the~~
 89 ~~rules of the Senior Management Service.~~

90 b. In addition, each department may designate one
 91 additional position in the Senior Management Service if that
 92 position reports directly to the agency head or to a position in
 93 the Senior Management Service and if any additional costs are
 94 absorbed from the existing budget of that department.

95 2. If otherwise exempt, employees of the Public Employees
 96 Relations Commission, the Commission on Human Relations, and the
 97 Reemployment Assistance Appeals Commission, upon the
 98 certification of their respective commission heads, may be
 99 provided for under this paragraph as members of the Senior
 100 Management Service, if otherwise qualified. However, the deputy

101 general counsel of the Public Employees Relations Commission
102 shall be compensated as members of the Selected Exempt Service.

103 (y) The general counsel, chief or senior Cabinet aide,
104 public information administrator, communications director or
105 comparable position, inspector general, chief information
106 officer, agency information security manager designated pursuant
107 to s. 282.318(4)(a), and legislative affairs director of each
108 department. The department shall establish the salary and
109 benefits for these positions in accordance with the rules of the
110 Senior Management Service.

111 (z) Personnel employed by or reporting to the inspector
112 general, general counsel, state chief information security
113 officer, state chief data officer, and agency information
114 security manager designated pursuant to s. 282.318(4)(a). Unless
115 otherwise fixed by law, the department shall establish the
116 salary and benefits for these positions in accordance with the
117 rules of the Selected Exempt Service.

118 (aa) All actuaries at each department. Unless otherwise
119 fixed by law, the department shall establish the salaries and
120 benefits for these positions in accordance with the rules of the
121 Selected Exempt Service.

122 (4) DEFINITION OF DEPARTMENT.—When used in this section,
123 the term "department" shall mean all departments and commissions
124 of the executive branch, whether created by the State
125 Constitution or chapter 20; the office of the Governor; the

126 Office of Insurance Regulation of the Financial Services
 127 Commission; the Office of Financial Regulation of the Financial
 128 Services Commission; the Florida Gaming Control Commission; the
 129 Division of Administrative Hearings; the Commission on Offender
 130 Review; the Florida Commission on Human Relations; the Public
 131 Employees Relations Commission; and the Public Service
 132 Commission; however, the term "department" shall mean the
 133 Department of Management Services when used in the context of
 134 the authority to establish pay bands and benefits.

135 Section 2. Subsection (1) of section 110.211, Florida
 136 Statutes, is amended to read:

137 110.211 Recruitment.—

138 (1) Recruiting must ~~shall~~ be planned and carried out in a
 139 manner that assures open competition based upon current and
 140 projected employing agency needs, taking into consideration the
 141 number and types of positions to be filled and the labor market
 142 conditions, with special emphasis placed on recruiting efforts
 143 to attract minorities, women, or other groups ~~that are~~
 144 underrepresented in the workforce of the employing agency.

145 However, open competition is not required when an employing
 146 agency is filling a position with an apprentice participating in
 147 an apprenticeship program as defined in s. 446.021(6) in a
 148 related field.

149 Section 3. Section 217.07, Florida Statutes, is amended to
 150 read:

151 217.07 Transfer of surplus property assets to department.—
 152 The Chief Financial Officer is authorized to transfer to the
 153 department any funds unexpended in the Surplus Property
 154 Revolving Trust Fund account in the State Treasury. This
 155 revolving fund shall remain in existence as a separate trust
 156 fund as long as the surplus property program exists. Upon
 157 termination of the program, any remaining funds shall be
 158 disposed of as provided by federal law. All funds held in the
 159 Surplus Property Revolving Trust Fund account in the State
 160 Treasury generated by the Federal Surplus Personal Property
 161 Donation Program may be used only for the direct and indirect
 162 operating expenses of the Federal Surplus Personal Property
 163 Donation Program administered by the department.

164 Section 4. Paragraph (d) of subsection (15) of section
 165 287.057, Florida Statutes, is amended to read:

166 287.057 Procurement of commodities or contractual
 167 services.—

168 (15)

169 (d) Each contract manager who is responsible for contracts
 170 in excess of \$10 million annually must, in addition to the
 171 training required in paragraph (b) and the training and
 172 certification required in paragraph (c), possess at least 3 5
 173 years of experience managing contracts totaling at least ~~in~~
 174 excess of \$5 million annually.

175 Section 5. Section 287.084, Florida Statutes, is amended

176 to read:

177 287.084 Preference to Florida businesses.—

178 (1) For the purposes of this section, a vendor is deemed
179 to have its principal place of business in this state if the
180 vendor meets all of the following criteria:

181 (a) Is incorporated in this state as a Florida business
182 entity, not a foreign business entity, excluding cases in which
183 incorporation is used to do business on behalf of a parent
184 company or to benefit an owner outside of this state.

185 (b) Maintains a physical location in this state.

186 (c) More than 50 percent of its workforce is domiciled in
187 this state.

188 (2) For competitive solicitations for commodities or
189 contractual services in excess of the threshold amount provided
190 for CATEGORY TWO in s. 287.017, an agency must apply a 5-percent
191 price preference for a bid or proposal from a vendor whose
192 principal place of business is in this state. For competitive
193 solicitations pursuant to s. 287.057(1)(c), an agency must apply
194 a 5-percent preference to the total score of a vendor whose
195 principal place of business is in this state, provided that a
196 price increase resulting from applying such preference may not
197 exceed 15 percent, and must disclose such preference in the
198 stated goals of an invitation to negotiate in order to determine
199 best value.

200 (3) For competitive solicitations for commodities or

201 contractual services in excess of the threshold amount provided
202 for CATEGORY TWO in s. 287.017, an agency must give priority in
203 the following order for bids, proposals, or replies submitted by
204 vendors whose principal places of business are in this state,
205 and when all things stated in such bids, proposals, or replies
206 are equal with respect to price, quality, and service:

207 (a) To the vendor whose goods are manufactured and
208 assembled in their entirety in this state. A vendor may not
209 substitute end products that would otherwise not qualify for
210 such preference after the award of the contract or during the
211 contract term unless pricing or availability of supply is
212 affected by extreme and unforeseen volatility in the
213 marketplace.

214 (b) To the vendor that manufactures a larger percentage of
215 its goods in this state.

216 (c) To the vendor that employs the greater number of
217 individuals domiciled in this state.

218 (4) For all competitive solicitations for commodities or
219 contractual services in excess of the threshold amount provided
220 for CATEGORY TWO in s. 287.017, an agency must apply a 5-percent
221 price preference for a bid or proposal from a vendor whose
222 principal place of business is in the United States. For
223 competitive solicitations pursuant to s. 287.057(1)(c), an
224 agency must apply a 5-percent preference to the total score of a
225 vendor whose principal place of business is in the United

226 States, provided that a price increase resulting from applying
227 such preference may not exceed 15 percent, and must disclose
228 such preference in the stated goals of an invitation to
229 negotiate in order to determine best value.

230 (5) For competitive solicitations for commodities or
231 contractual services in excess of the threshold amount provided
232 for CATEGORY TWO in s. 287.017, an agency must give priority in
233 the following order for bids, proposals, or replies submitted by
234 vendors whose principal places of business are in the United
235 States, and when all things stated in such bids, proposals, or
236 replies are equal with respect to price, quality, and service:

237 (a) To the vendor whose goods are manufactured and
238 assembled in their entirety in this state, and if such vendor
239 does not exist, then in the United States. A vendor may not
240 substitute end products that would otherwise not qualify for
241 such preference after the award of the contract or during the
242 contract term unless pricing or availability of supply is
243 affected by extreme and unforeseen volatility in the
244 marketplace.

245 (b) To the vendor that manufactures a larger percentage of
246 its goods in this state, and if such vendor does not exist, then
247 in the United States.

248 (c) To the vendor that employs the greater number of
249 individuals domiciled in this state, and if such vendor does not
250 exist, then in the United States.

251 (6) Preferences applied under this section have precedence
252 over those applied pursuant to s. 287.092.

253 ~~(1)(a) When an agency, university, college, school~~
254 ~~district, or other political subdivision of the state is~~
255 ~~required to make purchases of personal property through~~
256 ~~competitive solicitation and the lowest responsible and~~
257 ~~responsive bid, proposal, or reply is by a vendor whose~~
258 ~~principal place of business is in a state or political~~
259 ~~subdivision thereof which grants a preference for the purchase~~
260 ~~of such personal property to a person whose principal place of~~
261 ~~business is in such state, then the agency, university, college,~~
262 ~~school district, or other political subdivision of this state~~
263 ~~shall award a preference to the lowest responsible and~~
264 ~~responsive vendor having a principal place of business within~~
265 ~~this state, which preference is equal to the preference granted~~
266 ~~by the state or political subdivision thereof in which the~~
267 ~~lowest responsible and responsive vendor has its principal place~~
268 ~~of business. In a competitive solicitation in which the lowest~~
269 ~~bid is submitted by a vendor whose principal place of business~~
270 ~~is located outside the state and that state does not grant a~~
271 ~~preference in competitive solicitation to vendors having a~~
272 ~~principal place of business in that state, the preference to the~~
273 ~~lowest responsible and responsive vendor having a principal~~
274 ~~place of business in this state shall be 5 percent.~~

275 ~~(b) Paragraph (a) does not apply to transportation~~

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276 ~~projects for which federal aid funds are available.~~

277 ~~(c) As used in this section, the term "other political~~
278 ~~subdivision of this state" does not include counties or~~
279 ~~municipalities.~~

280 ~~(2) A vendor whose principal place of business is outside~~
281 ~~this state must accompany any written bid, proposal, or reply~~
282 ~~documents with a written opinion of an attorney at law licensed~~
283 ~~to practice law in that foreign state, as to the preferences, if~~
284 ~~any or none, granted by the law of that state to its own~~
285 ~~business entities whose principal places of business are in that~~
286 ~~foreign state in the letting of any or all public contracts.~~

287 ~~(7)(3)(a)~~ (7)(3)(a) A vendor whose principal place of business is in
288 this state may not be precluded from being an authorized
289 reseller of information technology commodities of a state
290 contractor as long as the vendor demonstrates that it employs an
291 internationally recognized quality management system, such as
292 ISO 9001 or its equivalent, and provides a warranty on the
293 information technology commodities which is, at a minimum, of
294 equal scope and length as that of the contract.

295 ~~(8)(b)~~ This section ~~subsection~~ applies to any solicitation
296 or renewal of any state contract executed on or after October 1,
297 2024 July 1, 2012. However, the preferences in this section do
298 not apply to transportation projects for which federal funds are
299 available.

300 Section 6. Section 287.0841, Florida Statutes, is created

301 to read:

302 287.0841 Florida Opportunity Fund preference.—In addition
303 to the preferences considered in s. 287.084, for competitive
304 solicitations for commodities or contractual services in excess
305 of the threshold amount provided for CATEGORY TWO in s. 287.017,
306 an agency must apply a 5-percent price preference for a bid or
307 proposal from a vendor that currently holds or maintains an
308 investment from the Florida Opportunity Fund pursuant to s.
309 288.9624. For competitive solicitations pursuant to s.
310 287.057(1)(c), an agency must apply a 5-percent preference to
311 the total score of a vendor that currently holds or maintains an
312 investment from the Florida Opportunity Fund pursuant to s.
313 288.9624, provided that a price increase resulting from applying
314 such preference may not exceed 15 percent, and must disclose
315 such preference in the stated goals of an invitation to
316 negotiate in order to determine best value.

317 Section 7. This act shall take effect July 1, 2024.